

SPECIAL NOTICE

MOTOR FUELS TAX JULY 1, 1992

P.L. 1992, c.23, effective July 1, 1992, makes major changes in the way the Motor Fuels Tax is administered in New Jersey. Among other things, the legislation:

- Expands the definition of “fuels” to include any liquid or gaseous substance *which is capable* of generating power in motor vehicles on public highways;
- Imposes an excise tax of \$0.135 per gallon on sellers and users who place “special fuels” (defined below) into the fuel tank of a motor vehicle for use to propel the vehicle over the public highways;
- Changes licensing requirements and terms, includes license requirements for entities that formerly did not have to obtain licenses, and increases all license fees;
- Fixes new bonding requirements for distributors, importers, gasoline jobbers and sellers and users of special fuels;
- Expands record keeping requirements and requires all records to be kept for a period of four years;
- Changes due date for filing reports and tax returns to the 20th of the month and requires additional reports and tax returns to be filed;
- Requires fuel dispensing equipment to have *sealed* totalizers;
- Increases fines and penalties;
- Imposes *personal* liability on those responsible for the tax imposed, collected or required to be paid, collected or remitted under the Motor Fuels Tax Law; and
- Gives the State forfeiture power over untaxed special fuels in certain circumstances.

Information about these major changes appears below.

DEFINITIONS

“**Fuels**” means gasoline and any liquid or gaseous substance, including liquid quantity extenders to gasoline, used or sold for use *which is capable* of generating power for the propulsion of motor vehicles upon the public highways.

“**Special fuels**” means any fuel capable of generating power in a diesel type engine which will include, without limitation, diesel fuel, No. 2 fuel oil and kerosene.

“**Seller of special fuels**” means any person who sells fuel capable of generating power in a diesel type engine which will include, without limitation, diesel fuel, No. 2 fuel oil and kerosene.

“**User of special fuels**” means any person who maintains a storage tank of any type equipped with a dispensing device used for storing and dispensing diesel fuel, No. 2 fuel oil and kerosene for his own use.

LICENSES

Several new license categories have been created and all license fees have been increased. All licenses are issued for a period of three years, except the transporter's license and storage facility operator's license, which are issued for a one year period. All license periods begin on April 1 and end on March 31. Certain former license categories will no longer exist. The chart below lists the new license terms and fees.

The new license categories are:

Exporter License: Required by any person not otherwise licensed under the Motor Fuels Tax Law who acquires title or takes delivery of fuels within New Jersey and subsequently exports such fuels from the State.

Importer License: Required by any person who imports fuels into New Jersey for use, distribution, storage or sale in this State.

Seller-User of Special Fuels License: Required by any person (except a distributor, importer, gasoline jobber or wholesale dealer) who places special fuels into the supply tank of a motor vehicle for use on a public highway.

Storage Facility Operator License: Required by any person owning, renting or leasing multiple bulk storage facilities in this State with a capacity of 100,000 gallons or more and any person leasing or subleasing space in such facility and storing fuels there.

| <u>LICENSE</u> | <u>FEE</u> | <u>PERIOD</u> |
|-------------------------------------------|------------|---------------|
| Distributor | \$450.00 | 3 years |
| Importer | 450.00 | 3 years |
| Exporter | 450.00 | 3 years |
| Wholesale Dealer (each establishment) | 450.00 | 3 years |
| Gasoline Jobber | 450.00 | 3 years |
| Seller-User of Special Fuels | 150.00* | 3 years |
| Retail Dealer (each establishment) | 150.00 | 3 years |
| Transporter (each conveyance) | 50.00 | 1 year |
| Storage Facility Operator (each facility) | 150.00 | 1 year |

*No fee to holder of Retail Dealer's License.

Applications for the new licenses (Exporter, Importer, Seller-User of Special Fuels and Storage Facility Operator), as well as applications for the Distributor, Wholesale Dealer and Gasoline Jobber licenses, accompany this notice.

The appropriate license application(s) must be completed and returned to the Division of Taxation, even though the applicant may already hold a license issued by the Division. Payment of the full amount of the license fee (less credit for a pro rata portion of any license fee paid before April 1, 1992 attributable to the period after July 1, 1992) must accompany the license application. Please issue a separate check for each license applied for. Send the completed application(s) to the Division of Taxation, Motor Fuels Section, CN 243, Trenton, NJ 08646-0243.

For applications received after the effective date of the legislation, the Division will issue temporary licenses which may be relied upon pending the issuance of permanent licenses to the applicants by the Division. Existing licenses, including those which have expired under the new Motor Fuels Tax Law, will be honored.

Some businesses may require more than one license. For example: A gas station operator selling gasoline and diesel fuel must obtain both a retail dealer's license and a seller-user of special fuels license. A diesel fuel distributor who maintains a 200,000 gallon storage tank must hold both a distributor's and storage facility operator's license. A gasoline wholesaler whose company also delivers fuel must obtain a wholesale license as well as a transporter license for each of his conveyances (vessel, barge, tanker, tank truck, truck tractor, semitrailer, trailer or other vehicle).

BONDING REQUIREMENTS

Before being granted a license, every distributor, importer or gasoline jobber must file a bond in an amount no greater than three times the tax on the greatest amount of motor fuels handled during any one month of the previous 12 months. The total amount of the bond required for a distributor or gasoline jobber will never be less than \$25,000 nor more than \$1,000,000. For an importer, the total amount of the bond will never be less than \$50,000 nor more than \$1,000,000.

Generally, a seller of special fuels and user of special fuels must file a bond in an amount no greater than three times the tax on the greatest amount of motor fuels handled during any one month of the previous 12 months. The total amount of the bond required will never be less than \$1,000 nor more than \$1,000,000.

RECORD KEEPING

The kinds of records required to be kept by licensees under the Motor Fuels Tax Law, including purchasers, sellers and users of motor fuels, have been expanded, and all records must now be retained for a period of four years. The new requirements are contained in the separate instruction sheet attached to this notice.

TAX RETURNS AND INFORMATION REPORTS

All tax returns and information reports are required to be filed monthly, and received by the Division on or before the 20th of the month following the month for which the return or report is being submitted. If a due date falls on a Saturday, Sunday or legal holiday, the filing is due the next business day. Forms will be sent to licensees in advance of the initial due date.

The following tax returns and/or reports must be submitted:

1. **Distributors, Importers and Gasoline Jobbers** are required to file a tax return stating the number of gallons of fuel sold or used during the preceding month and remit tax at the rate of \$0.105 per gallon for gasoline fuel and \$0.0525 for liquefied petroleum gas, propane and liquefied or compressed natural gas. In addition, the return must state (a) the number of gallons of fuel, except turbine fuel, and (b) the number of gallons of turbine fuel sold to general aviation airports during the preceding month. A surcharge of \$0.02 per gallon on such aviation gasoline and turbine fuel must be remitted. Distributors who are sellers of special fuels will also report special fuels transactions.

2. **Sellers of Special Fuels and Users of Special Fuels** who dispense fuel into the fuel supply tanks of motor vehicles for use on public highways, or maintain storage tanks of any type used for storing and dispensing special fuels, or who sell special fuels to unlicensed buyers, are required to file a tax return stating the number of gallons of fuel sold or used during the preceding month and remit tax at the rate of \$0.135 per gallon.

Sellers and users of special fuels purchase special fuels tax-free and must collect the \$0.135 per gallon tax due from the purchaser acquiring fuel for a taxable purpose, or remit the necessary fuels tax on use of the fuel. If the seller or user fails to collect or remit a tax, the seller or user is liable for the tax due.

Note: The new amendment to the the Motor Fuels Tax Law also places additional powers of collection and enforcement at the disposal of the Division. The person who collects the tax is acting as a trustee for and on account of the State of New Jersey. Such persons are, by law, personally responsible for the tax imposed, collected or required to be paid, collected or remitted.

3. **Storage Facility Operators** must submit a report stating the quantities of fuel received at or sold from the storage facility in New Jersey during the preceding month. The report must include the name and address of any person leasing or subleasing storage in the facility and the quantities of fuel stored for each person.

4. **Exporters** must submit a report stating the number of gallons of fuel exported or used during the preceding month.

WARNING: Any person who obtains fuel for export and fails to export it, or who unlawfully returns the fuel to this State and sells or uses the fuel in this State and fails to notify the Director of this act, and any person who conspires in such acts with the intent to avoid Motor Fuels Tax, will be guilty of a crime of the fourth degree.

5. **Wholesale Dealers** must submit such reports as the Director of the Division of Taxation may require. Such reports may include the same report to be filed by a Seller-User of Special Fuels.

FUEL DISPENSING EQUIPMENT

All fuel dispensing equipment used by a retail dealer, seller of special fuels or user of special fuels to dispense fuels into the fuel supply tank or other fueling receptacle of a motor vehicle, or who makes sales to unlicensed buyers, must have in operation at all times a **sealed** gallons totalizer of at least six digits.

WARNING: Any person who operates a pump not equipped with a sealed totalizer as required by the Motor Fuels Tax Act, or who tampers with a totalizer, is guilty of a crime of the fourth degree.

CREDIT FOR TAX-PAID PURCHASES

Effective July 1, 1992, a credit for "tax-paid" special fuels in inventory will be recognized only after an audit by "authorized adjustments" issued by the Division of Taxation. Credit will be conditioned upon submission of satisfactory proof that the tax has been previously paid to the Division. Documentation of the claim for credit may include copies of such items as purchase invoices, transfer tickets, bills of lading which contain the invoice number, point of shipment/delivery, number of gallons, price/charges and the date of the transaction sufficient to trace the fuel back to the person who paid the tax.

The Division will review the information submitted and will issue an "authorized adjustment" if satisfied that the applicable Motor Fuels Tax has been paid. If the documentation provided is insufficient to prove payment of the tax, an authorized adjustment will be denied.

For more information about Motor Fuels Tax, contact the Division's Motor Fuels Section at 609-633-8047 or write to the Office of Communication, 50 Barrack Street, CN 281, Trenton, NJ 08646-0281.

NEW JERSEY MOTOR FUELS TAX RECORD KEEPING REQUIREMENTS

Instructions

All licensees must keep accurate and complete records of their receipt, export, sale and/or use of motor fuels in New Jersey as described below. Records must be retained for a period of four years and must be available for inspection by the Division.

Any person who fails to furnish an invoice or to keep the records required or to permit inspection of these records will, upon conviction, be subject to fines or imprisonment. Failure to comply may also result in license suspension or revocation.

Distributors, Importers or Gasoline Jobbers must:

- A. Keep a record of all fuels sold or used which must include the name of the purchaser, the number of gallons used or sold and the date of the sale or use.
- B. Deliver with every consignment of fuel to a purchaser within this State a written statement containing the date and number of gallons delivered, the names of the purchaser and seller and showing a separate charge for the tax on every gallon.
- C. Take a physical inventory of fuels on hand on the first or last day of every calendar month and keep the record of this inventory and all other records available at all times for inspection.

Wholesale Dealers, Sellers of Special Fuels, Users of Special Fuels, Retail Dealers must:

Keep a record of all fuels received and sold, the amount of tax paid, together with delivery tickets, totalizer readings, invoices, bills of lading, monthly physical inventories, and such other records as the Division may require.

Seller of Special Fuels - Additional Requirements:

Every person selling diesel fuel, No. 2 fuel oil, kerosene or any other special fuel must furnish an invoice with each sale showing the seller's name, address and motor fuels license number; the date of sale, kind of fuel and number of gallons sold, amount of tax charged, if applicable, and total price; and the purchaser's name, address and current motor fuels license number. If the sale is made to a person not required to hold a license, the invoice shall state the purpose for which the fuel will be used. **NOTE: Where an invoice does not meet all these requirements, the fuels sold will be subject to the Motor Fuels Tax.**

Retail Dealer - Additional Requirements:

Every retail dealer must keep a daily record showing the total amount of fuels sold on each business day, daily dispensing pump totalizer readings and monthly physical inventories.